

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

KANDLE BLACK,

Defendant.

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Civil Action No. SA-09-CR-769(3)-XR

ORDER ON MAGISTRATE JUDGE’S MEMORANDUM & RECOMMENDATION

On this date, the Court considered the United State Magistrate Judge’s Memorandum and Recommendation in the above-numbered and styled case (Docket No. 79). After careful consideration, the Court ACCEPTS the Magistrate Judge’s recommendation to deny Defendant Kandle Black’s motion to withdraw her plea.

Any party who desires to object to a Magistrate Judge’s findings and recommendations must serve and file written objections within fourteen days after being served with a copy of the findings and recommendations. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). The Magistrate Judge issued his Memorandum and Recommendation on July 21, 2010. The Report and Recommendation was entered on the docket and Petitioner was served via United States mail on July 22, 2010. Accordingly, objections were due by August 9, 2010. *See* FED. R. CIV. P. 6(a) (regarding computation of time); *id.* R. 6(d) (regarding addition of three days depending on type of service). Because no party has objected to the Magistrate Judge’s Memorandum and Recommendation, the Court need not conduct a de novo review. *See* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or

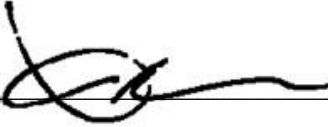
recommendations to which objection is made.”).

In this case, Defendant Kandle Black moved to withdraw her plea of guilty to conspiracy distribute and to possess with intent to distribute 50 grams or more of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(2), and 846. Black argues that she felt she was coerced by her attorney into pleading guilty and that it would be in her best interest to withdraw the plea. The Magistrate Judge reviewed the motion in accordance with the Federal Rules of Criminal Procedure and the seven factors outlined in *United States v. McKnight*, 570 F.3d 641, 645–46 (5th Cir. 2009), for a court to consider in deciding whether to allow a Defendant to withdraw a guilty plea. The Magistrate Judge determined that the factors weighed against Black’s motion, and he recommends that this Court deny the motion.

The Court has reviewed the Memorandum and Recommendation and finds it to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989). Accordingly, the Court ACCEPTS the Magistrate Judge’s recommendation to deny Defendant’s motion (Docket No. 76), and the Court hereby DENIES Defendant’s motion to withdraw her plea.

It is so ORDERED.

SIGNED this 10th day of August, 2010.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE